

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Buffalo Wild Wings, Inc.,
a Minnesota corporation,

Civil File No. 09-CV-01426 (JMR/SRN)

Plaintiff,

v.

Buffalo Wings & Rings, LLC, and
DOES 1-95,

Defendants.

REPLY TO DEFENDANT’S COUNTERCLAIMS

Plaintiff Buffalo Wild Wings, Inc. (“Buffalo Wild Wings”) answers the Declaratory Judgment Counterclaims of Defendant Buffalo Wings & Rings, LLC (“Buffalo Wings & Rings”) as follows:

1. In answering Paragraph 89, Buffalo Wild Wings admits that Buffalo Wings & Rings has asserted counterclaims for declaratory relief but denies that there is any merit to Buffalo Wings & Rings’ claims. Buffalo Wild Wings admits that the Court has subject matter jurisdiction.
2. In answering Paragraph 90, Buffalo Wild Wings admits that venue in this district is proper.
3. Buffalo Wild Wings lacks knowledge and information sufficient to admit or deny the allegations in Paragraph 91.
4. Buffalo Wild Wings admits Paragraph 92.

FIRST COUNTERCLAIM

**(Alleged Non-Infringement of Service Mark and Trade Dress
and Non-Violation of Minn. Stat. § 325D.44)**

5. No response is required to Paragraph 93.
6. In answering Paragraph 94, Buffalo Wild Wings admits that it has asserted claims for trademark and trade dress infringement. Buffalo Wild Wings denies that the filing of the lawsuit was the first notice Buffalo Wings & Rings received of Buffalo Wild Wings' claims.
7. Buffalo Wild Wings admits Paragraph 95.
8. In answering Paragraph 96, Buffalo Wild Wings admits that Buffalo Wings & Rings has denied infringing Buffalo Wild Wings' trademarks and trade dress but denies that there is any merit to Buffalo Wings & Rings' position. Buffalo Wild Wings denies all other allegations contained in Paragraph 96.
9. Buffalo Wild Wings denies Paragraph 97.
10. In answering Paragraph 98, Buffalo Wild Wings admits that Buffalo Wings & Rings has denied engaging in deceptive trade practices but denies that there is any merit to Buffalo Wings & Rings' position.
11. Buffalo Wild Wings denies Paragraph 99.
12. Buffalo Wild Wings lacks knowledge and information sufficient to admit or deny the allegations in Paragraph 100.
13. The allegations in Paragraph 101 are legal conclusions to which no response is required.
14. Buffalo Wild Wings denies Paragraph 102.

15. Buffalo Wild Wings denies Paragraph 103.
16. Buffalo Wild Wings denies Paragraph 104.
17. Buffalo Wild Wings denies Paragraph 105.

SECOND COUNTERCLAIM
(Alleged Invalidity of Buffalo Wild Wings' Trade Dress)

18. No response is required to Paragraph 106
19. Buffalo Wild Wings admits Paragraph 107.
20. In answering Paragraph 108, Buffalo Wild Wings admits that Buffalo Wings & Rings denies infringing Buffalo Wild Wings' trade dress but denies that there is any merit to Buffalo Wings & Rings' position. Buffalo Wild Wings denies all other allegations contained in Paragraph 108.

21. Buffalo Wild Wings lacks knowledge and information sufficient to admit or deny the allegations in Paragraph 109.

22. The allegations in Paragraph 110 are legal conclusions to which no response is required.

23. Buffalo Wild Wings denies Paragraph 111.

SEPARATE DEFENSES

24. Buffalo Wings & Rings' counterclaims are barred under the doctrine of unclean hands.

WHEREFORE, Buffalo Wild Wings requests the following relief:

1. Dismiss Buffalo Wings & Rings' Counterclaims with prejudice;

2. Enter judgment in favor of Buffalo Wild Wings on its Complaint and on Buffalo Wings & Rings' Counterclaims;
3. Award Buffalo Wild Wings attorneys' fees, costs and disbursements; and
4. Grant any other relief the Court deems just and equitable.

Dated: July 15, 2009

s/Lora M. Friedemann
Lora M. Friedemann (#259615)
lfriedemann@fredlaw.com
Joshua R. Williams (#389118)
jwilliams@fredlaw.com
FREDRIKSON & BYRON, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402-1425
Phone: (612) 492-7000
Fax: (612) 492-7077

**ATTORNEYS FOR PLAINTIFF
BUFFALO WILD WINGS, INC.**

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